

CRS Report for Congress

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Balkan Cooperation on War Crimes Issues: 2005 Update

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Summary

A combination of intensified international pressure and deadlines associated with Euro-Atlantic integration processes has prompted a spate of transfers of persons indicted for war crimes to the International Criminal Tribunal for the former Yugoslavia (ICTY) in The Hague from late 2004 through early 2005. Full cooperation with The Hague tribunal has been established as a key prerequisite to further progress toward a shared long-term goal for the western Balkan countries: closer association with and eventual membership in the European Union (EU) and NATO. The Euro-integration efforts of Croatia, Bosnia-Herzegovina, and Serbia and Montenegro have stalled (to varying degrees) over ICTY cooperation, although recent substantial progress in turning over indicted persons has been achieved. Three top-ranking war crimes suspects remain at large: wartime Bosnian Serb leaders Radovan Karadzic and Gen. Ratko Mladic, and former Croatian Gen. Ante Gotovina. This report will be updated as events warrant. See also CRS Report RS21686, *Conditions on U.S. Aid to Serbia*.

Introduction and U.S. Concerns

Since late 2004, a steady stream of individuals charged with Balkan war crimes has turned up at the International Criminal Tribunal for the former Yugoslavia (ICTY) in The Hague. Factors contributing to this recent inflow include intensified international pressure and deadlines associated with the European integration process. The European Union (EU) and NATO have explicitly conditioned closer association with the western Balkan states (mainly Serbia and Montenegro, Bosnia and Herzegovina, and also Croatia) on their respective levels of cooperation with ICTY. To varying degrees, conditionality policy has held up Euro-integration processes in the western Balkans that would otherwise likely have gone forward.

Most of the recent transfers of indicted persons have come from Serbia or the Republika Srpska (RS) entity within Bosnia and Herzegovina, both parties with the greatest number of suspects and the weakest cumulative record of cooperation with ICTY. Other prominent surrenders include the former Prime Minister of Kosovo's governing

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institutions and the former Bosnian Muslim (or Bosniak) Army chief. However, the fate of top-ranking remaining war crimes suspects, some of whom have eluded capture for a decade, remains uncertain.

Meanwhile, ICTY operations are beginning to wind down after a dozen years in operation. ICTY Chief Prosecutor Carla del Ponte prepared the Tribunal's final indictments in late 2004 and the last war crimes indictments were unsealed and made public in March 2005. More than 60 accused are currently in ICTY's custody. ICTY planned to conclude all initial trials by 2008 and all court proceedings by 2010. However, due to a variety of factors, the President of ICTY recently extended his estimate for a completion date by at least one year.¹

U.S. Administration and congressional interest in levels of Balkan cooperation with the Tribunal stems from longstanding U.S. support for ICTY and insistence that the top-ranking indicted persons be turned over to The Hague. The United States supports the region's Euro-Atlantic aspirations, including closer ties to and possible membership in NATO. In legislation, Congress has annually conditioned U.S. assistance to Serbia on ICTY cooperation, including the extradition of Gen. Mladic, and a presidential waiver. The Bush Administration has also supported the Tribunal's original "completion strategy" to conclude activities by 2010.

Chronology of Recent Transfers²

04/25/2005 — Despite earlier statements that he would not voluntarily surrender, Gen. Nebojsa Pavkovic, former Serbian Army chief of staff, arrived at The Hague. He is the third Serbian general under the October 2003 indictment against four generals to come into custody. He is charged with alleged crimes relating to Serbian military and police operations in Kosovo in 1998-1999.

04/14/2005 — Former Bosnian Serb officer Vujadin Popovic surrendered to The Hague. He is charged with genocide and war crimes related to the 1995 Bosnian Serb attacks on Srebrenica.

04/08/2005 — Former Bosnian Serb commander Milorad Trbic arrived at The Hague and is charged in the same indictment as Vinko Pandurevic (see 03/23).

04/04/2005 — Former Serbian special police Gen. Sreten Lukic was transferred to The Hague from a Belgrade hospital where he had undergone vascular surgery. Lukic is charged with crimes allegedly committed by forces under his command in Kosovo in 1999. The Serbian government denied reports that it had forced Lukic's extradition.

04/01/2005 — Former Bosnian Serb special police commander Ljubomir Borovcanin arrived at The Hague from Belgrade. His indictment from 2002 charges him with individual and command responsibility for crimes relating to the 1995 Bosnian Serb offensive in eastern Bosnia.

03/24/2005 — Former Macedonian Interior Minister Ljube Boskovski was transferred to The Hague from Croatia, where he had been incarcerated on charges unrelated to the ICTY

¹ Assessment of the ICTY President and Prosecutor to the U.N. Security Council, May 25, 2005, S/2005/343.

² Details of the indictments can be found at the ICTY home page, [<http://www.un.org/icty>].

indictment. His ICTY indictment cites charges relating to the unlawful killing of ethnic Albanian civilians in northern Macedonia during the 2001 conflict.

03/23/2005 — Former Bosnian Serb Gen. Vinko Pandurevic was transferred to The Hague. Gen. Pandurevic served as a brigade commander of the Bosnian Serb Army (VRS) and is charged with genocide and crimes against humanity relates to the 1995 massacre in Srebrenica.

03/17/2005 — Former Bosnian Serb Chief of Security Drago Nikolic arrived at The Hague. Nikolic is charged with genocide and crimes against humanity for his alleged individual criminal role in the 1995 Srebrenica assault.

03/16/2005 — Former Macedonian police officer Johan Tarculovski arrived at The Hague. Along with former Macedonian Interior Minister Ljube Boskovski, Tarculovski is charged with unlawful attacks on civilians during the 2001 conflict.

03/14/2005 — Former Bosnian Serb Chief of Police Gojko Jankovic was transferred to The Hague from Banja Luka.³ He is charged with war crimes allegedly committed in the 1992 attack on the Bosnian town of Foca.

03/11/2005 — Former Bosnian Serb Interior Minister (MUP) Mico Stanisic was transferred to The Hague. He is charged with war crimes and crimes against humanity relating to his role in commanding and directing Bosnian Serb police actions against non-Serb populations in Bosnia during 1992.

03/09/2005 — Ramush Haradinaj arrived at The Hague after resigning from his position as Kosovo Prime Minister the previous day. The indictment against former Kosovo Liberation Army commander Haradinaj and two of his subordinates (Lahi Brahimaj and Idriz Balaj, who turned themselves in with Haradinaj) cites charges of war crimes perpetrated against Serbs and others in Kosovo in 1998. Haradinaj was granted provisional release, with conditions, on June 6.

03/07/2005 — Gen. Momcilo Perisic, former Chief of the General Staff of the Yugoslav Army, surrendered to The Hague. He is charged with 13 counts of crimes allegedly committed in Sarajevo, Zagreb, and Srebrenica.

02/28/2005 — Gen. Radivoj Miletic, former Bosnian Serb army chief of operations, arrived at The Hague after surrendering to Serbian government authorities. His indictment, shared with Milan Gvero (below), relates to war crimes allegedly committed in Srebrenica in 1995.

02/28/2005 — Gen. Rasim Delic, former Chief of the General Staff of the Bosnian Army, departed Sarajevo for The Hague, and is charged on the basis of his command authority with four counts of violating customs of war in 1993 and 1995. Delic was granted provisional release on May 6.

02/24/2005 — Milan Gvero, a former VRS commander, arrived at The Hague from Belgrade. He is charged with individual criminal responsibility for crimes allegedly committed in the Srebrenica region in 1995.

02/03/2005 — Gen. Vladimir Lazarevic, former commander of the Yugoslav Army Pristina Corps, arrived at The Hague. Lazarevic is one of the four Yugoslav Army generals indicted by

³ Jankovic was reportedly one of several Serbian indictees who had sought and received refuge in Russia for years. See Ed Vulliamy, "Russians Accused of Sheltering War Crimes Suspects," *The Guardian* (U.K.), Mar. 15, 2005.

ICTY in October 2003 for alleged crimes committed in Kosovo. (ICTY provisionally released Lazarevic and three other suspects on April 15.)

Remaining Suspects at Large

By June 2005, ten known indicted suspects remained at large. For most concerned parties, the short-list comprises the top three suspects: former Bosnian Serb leaders Radovan Karadzic and Gen. Ratko Mladic; and former Croatian Gen. Ante Gotovina. The indictments against Karadzic and Mladic charge the former Bosnian Serb leaders with genocide, crimes against humanity, and violations of the laws or customs of war as part of the Bosnian Serb campaign in 1991 to 1995 to control territory and drive out non-Serb populations. Gotovina is charged with crimes against humanity and violations of the laws or customs of war in relation to the 1995 Croatian “Storm” offensive against Croatian Serb-held territory in the Krajina region.

Authorities in Belgrade, Sarajevo, and Zagreb insist they do not know the whereabouts of these suspects; ICTY and other international officials believe that local governments can do more than they have to bring about their arrest and capture, especially by going after their support networks. According to ICTY Chief Prosecutor del Ponte, Gotovina, Mladic, and Karadzic remain “within reach” of authorities in Croatia, Serbia, and the RS. She also recently asserted that Belgrade’s policy of voluntary surrenders may have reached its limits. In April, Serbia and Montenegro Foreign Minister Draskovic stated that the security services knew where Mladic was. A subsequent Serbian news report quoted a former security source claiming that Mladic had been sheltered by the Serbian military in 2004.⁴

Most of the remaining seven Serb or Bosnian Serb fugitives are thought to be in Serbia and Montenegro or in the RS.

Policy Implications

By early 2005, the implications of the established international conditionality policy had become more pronounced, as international actors such as the European Union, United States, and Office of the High Representative in Bosnia wielded “carrot and stick” instruments more explicitly. Securing the region in a stable and prosperous Euro-Atlantic zone, as opposed to an area of incomplete postwar transition susceptible to destabilizing trends or criminal elements, remains a shared goal. On the incentive side, officials have expressed continued support for the Euro-Atlantic aspirations of the western Balkan states and a strong interest in moving forward in these integration processes, some of which have lagged primarily over ICTY cooperation. At the same time, recent actions have made clear that these processes cannot be completed until the Balkan states adhere to standards on international commitments and the rule of law, especially with regard to meeting obligations on ICTY cooperation and overcoming the legacy of the wartime years. Still lagging behind other nations in the integration process, the western Balkan states have made closer ties to NATO and especially the EU a key strategic priority.

⁴ “Serbian Authorities Know Where Mladic Is Hiding,” *Financial Times*, Apr. 5, 2005; Associated Press, Apr. 11, 2005.

Examples of the carrot and stick approach include the EU's recent decisions to approve opening association talks with Serbia, on the one hand, while postponing actual membership talks with Croatia, on the other hand. In 2004, NATO twice decided not to invite Bosnia and Serbia-Montenegro to join Partnership for Peace, and High Representative Paddy Ashdown subsequently took measures to remove obstructionist Bosnian Serb leaders from office. Another related example was the U.S. decision in January to withhold a portion of FY2005 bilateral assistance to Serbia because of Belgrade's poor cooperation with ICTY, and to restore it in June in recognition of recent progress.

Bosnia and Herzegovina. Like Serbia and Montenegro, Bosnia and Herzegovina currently seeks membership in NATO's Partnership for Peace program and a Stabilization and Association Agreement (SAA) with the European Union. The EU concluded an SAA Feasibility Study for Bosnia in November 2003 and identified 16 priority reform areas that have become a blueprint for Bosnia's ongoing reform process. At the same time, limited cooperation with ICTY, especially by the Republika Srpska (RS), has caused a slowdown in the association process, and the SAA process has stalled. Until January 2005, RS authorities had not turned over a single indicted suspect. The ICTY issue has also provided High Representative Paddy Ashdown justification for exercising his authority to remove obstructionist officials, freeze assets, and even re-shape governing institutions especially in the defense and security sectors, segments of which were thought to support war crimes fugitives.⁵ The status of Radovan Karadzic will remain a key challenge for Bosnia's authorities as well as for the EU military force and residual NATO presence in Bosnia, whose mandates include apprehending persons indicted for war crimes.

Croatia. With the exception of one major issue, Croatia's largely positive record of cooperation with ICTY — as well as considerable advancement in economic and institutional reforms — have enabled it to progress steadily in the EU integration process. Croatia signed an EU Stabilization and Association Agreement in October 2001. Croatia formally applied for EU membership in February 2003, and in June 2004, the EU named Croatia a candidate country for membership. In December 2004, the EU agreed to open accession negotiations with Croatia in March 2005 provided that Croatia continued to cooperate with ICTY. However, the unresolved status of Gen. Ante Gotovina, who disappeared in June 2001 and represents the final obstacle to full cooperation with ICTY, has had a negative impact on this timetable.

On March 16, 2005, European Union members decided to postpone indefinitely the opening of accession negotiations with Croatia. The EU created a special task force to continue to assess Croatia's ICTY cooperation and possibly re-examine the EU position on Croatia in coming months, although some further resolution of the Gotovina situation will likely be required before membership talks can begin.⁶ Meanwhile, the EU's

⁵ Beyond the issue of extradition, a recent achievement in Bosnia was the inauguration in March 2005 of the War Crimes Chamber of the State Court of Bosnia and Herzegovina, which is expected eventually to take over for ICTY prosecution of war crimes in Bosnia.

⁶ In May 2005, ICTY Prosecutor del Ponte reported no further progress in Croatia's efforts to locate, arrest, and transfer Gen. Gotovina, and questioned Zagreb's willingness to do so.
(continued...)

decision to postpone accession talks sparked a swift popular Croatian backlash against the EU and a renewed wave of support for Gotovina. Polls show that a majority of Croats oppose Gotovina's extradition, and a move by the Sanader government to capture Gotovina could imperil political stability. Some analysts are concerned that popular resentment over the Gotovina case could erode support for reforms essential for eventual EU integration. Others note that Croatia is otherwise well positioned to join the EU relatively soon.

Serbia and Montenegro. Despite Serbia's notable achievement of extraditing wartime Serbian leader Slobodan Milosevic to The Hague in 2001, assessments of Serbia's level of cooperation with ICTY remained largely negative until recently. Beginning in late 2004, the Kostunica government increased its efforts to encourage the voluntary surrender of indicted persons, with evident results, even while it has not abandoned its reluctance to make arrests. Politically, the Kostunica government is constrained to some extent because it is supported in parliament by Milosevic's Socialist Party (SPS) and because the SPS and the nationalist Radical Party (SRS) vehemently oppose forced indictee transfers to The Hague. However, the extent of Kostunica's political vulnerability over ICTY cooperation is open to debate.⁷

Serbia's cooperation with ICTY has been a sore spot in its foreign relations for the past few years. In accordance with annual foreign aid appropriations legislation, the United States suspended portions of bilateral assistance to Serbia over war crimes issues in FY2004 and FY2005. In 2004, Serbia and Montenegro was twice denied entry into Partnership for Peace despite some significant progress in defense reforms. Serbia and Montenegro lagged behind other western Balkan states in the EU's Stabilization and Association process, the precursor to closer EU association and targeted EU assistance. Most observers believe that a projected EU timetable of March-April 2005 to finalize a Feasibility Study for a Stabilization and Association Agreement (SAA) with Serbia and Montenegro spurred Belgrade to demonstrate substantially improved ICTY cooperation beginning in late 2004.⁸

In April 2005, in recognition of Serbia's substantial progress in cooperating with ICTY, the European Commission approved its Feasibility Study on the SAA, and the EU Council called for stalled SAA negotiations to begin later in the year. However, the Council reiterated that it expected ICTY cooperation to continue and all remaining persons indicted for war crimes to be brought before the Tribunal. Similarly, in June, visiting U.S. Undersecretary of State Nicholas Burns announced in Belgrade that about \$10 million in previously suspended U.S. assistance to Serbia would be released, while noting the expectation that Belgrade would "take the final step" and send Mladic to The Hague.

⁶ (...continued)

S/2005/343, May 25, 2005.

⁷ The recent release of a video depicting Serbian atrocities during the 1995 Srebrenica massacre has raised Serbian public awareness and questioning of Serbia's role in the Bosnian war.

⁸ Complications arising from the state of the Serbia and Montenegro union had also presented some obstacles to EU integration.